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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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AZ CORP COMMISSION  
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COMMISSIONERS

GARY PIERCE - Chairman  
BOB STUMP  
SANDRA D. KENNEDY  
PAUL NEWMAN  
BRENDA BURNS

IN THE MATTER OF THE APPLICATION OF  
TUSAYAN WATER DEVELOPMENT  
ASSOCIATION, INC. FOR ESTABLISHMENT  
OF RATES FOR WATER SERVICE.

DOCKET NO. W-02350A-10-0163

IN THE MATTER OF THE APPLICATION OF  
ANASAZI WATER CO., LLC FOR  
ADJUDICATION "NOT A PUBLIC SERVICE  
CORPORATION."

DOCKET NO. W-20765A-10-0432

IN THE MATTER OF THE APPLICATION OF  
HYDRO-RESOURCES, INC. FOR  
ADJUDICATION "NOT A PUBLIC SERVICE  
CORPORATION."

DOCKET NO. W-20770A-10-0473

PROCEDURAL ORDER

**BY THE COMMISSION:**

On April 29, 2010, Tusayan Water Development Association, Inc. ("Tusayan") filed with the Arizona Corporation Commission ("Commission"), in Docket No. W-02350A-10-0163 ("Tusayan Docket"), a rate application using a test year ending December 31, 2009.

Since that time, through a series of events more fully described in the Procedural Orders issued in this matter on April 20 and August 17, 2011, processing of Tusayan's rate application has been suspended; Tusayan has been deemed to have filed an adjudication application; Tusayan's adjudication application has been consolidated with the adjudication applications filed by Hydro-Resources, Inc. ("Hydro") and Anasazi Water Company, LLC ("Anasazi"); intervention has been granted to Tusayan Ventures LLC ("T Ventures") and to the Town of Tusayan ("Town"); the Commission's Utilities Division ("Staff") has found all three adjudication applications to be sufficient; and late intervention has been granted to Squire Motor Inns, Incorporated ("Squire"). As a result of Squire's late intervention, it was determined that a hearing scheduled for September 9, 2011, would proceed only for the purpose of public comment and a procedural conference to discuss

1 whether the evidentiary portion of the hearing should commence on the second scheduled day of  
2 hearing, September 21, 2011.

3         On September 9, 2011, the proceeding was convened as scheduled before a duly authorized  
4 Administrative Law Judge at the Commission's offices in Phoenix, Arizona, with all of the parties  
5 appearing through counsel. No members of the public attended to provide public comment. During  
6 the procedural conference, Tusayan, Hydro, Anasazi, and Squire opposed going forward with the  
7 hearing, as they had been engaging in settlement discussions and had reached a "conceptual  
8 agreement" to have Hydro become a Certificate of Convenience and Necessity ("CC&N") holder and  
9 acquire the property necessary to provide service through a single unified water system, although a  
10 number of tasks would need to be completed for that to occur. Tusayan, Hydro, Anasazi, and Squire  
11 had been keeping Staff informed regarding their discussions, and Staff stated that the settlement  
12 discussions were encouraging but that September 21 would be too soon for a hearing to proceed  
13 specifically to review a settlement agreement. Hydro suggested that the parties be afforded additional  
14 time to work toward settlement and that a status conference be held in 60 to 90 days. Staff asserted  
15 that a shorter time period would be preferable. T Ventures and the Town stated that they would  
16 prefer to have the evidentiary hearing proceed on September 21, as T Ventures was working with the  
17 Town to begin development, and the Town and T Ventures were eager to have the water issues for  
18 the area resolved. The Town stated that it still ultimately desired to have a municipal water  
19 department to serve the area. It was determined that having the evidentiary portion of the hearing  
20 proceed on September 21, 2011, would be premature; that the hearing on September 21, 2011, would  
21 be vacated; and that a procedural conference would be scheduled for early October 2011 to obtain  
22 updates on the parties' positions in these consolidated matters and proposals as to how the matters  
23 should proceed. The parties were encouraged to work together toward resolving the matters, were  
24 cautioned to avoid any arrangements that could be viewed as self-dealing; and were provided the  
25 opportunity to use the Hearing Room for the remainder of the day to engage in settlement  
26 discussions. A Procedural Order was issued the same day memorializing the parties' positions taken  
27 at the procedural conference and the determination made there and scheduling a procedural  
28 conference for October 7, 2011.

1 On October 7, 2011, the procedural conference convened as scheduled before a duly  
2 authorized Administrative Law Judge of the Commission, with all parties appearing through counsel.  
3 It was reported that Tusayan, Hydro, and Anasazi had memorialized the broad terms of their  
4 conceptual settlement agreement into a draft settlement agreement document (“draft”), which had  
5 been routed to the other parties the day before. Anasazi characterized the draft as a “framework for  
6 additional discussions.” The parties reported that the draft called for the signatures of all parties and  
7 would have Hydro obtain the property and rights necessary to become the water utility and CC&N  
8 holder for the area, although Hydro would maintain its contractual relationship with Squire so as to  
9 continue obtaining water from Squire and using Squire’s storage tank.<sup>1</sup> T Ventures, the Town, and  
10 Staff all indicated that they had not yet had sufficient time to scrutinize the draft. T Ventures  
11 requested that a hearing be scheduled. The other parties supported allowing additional time for the  
12 parties to work out the remaining issues not yet resolved in the draft and scheduling a procedural  
13 conference to have the parties report their progress. It was determined that another procedural  
14 conference would be held in approximately 45 days.

15 On October 13, 2011, a Procedural Order was issued scheduling a procedural conference to be  
16 held on November 21, 2011.

17 On November 21, 2011, a procedural conference convened as scheduled before a duly  
18 authorized Administrative Law Judge of the Commission, with all parties appearing through counsel.  
19 The parties reported that additional progress has been made toward settlement and that all parties are  
20 now expected to enter into a settlement agreement. In addition, it was reported that Anasazi, Hydro,  
21 and Tusayan are working on a separate agreement regarding the transfer of property and rights to  
22 Hydro, with the goal being for Hydro to obtain the infrastructure and rights necessary to operate a  
23 unified water system for the Tusayan service area. Regarding the best means for Hydro to seek  
24 CC&N authority, Staff suggested that Hydro apply for a new CC&N and that Tusayan apply to  
25 cancel its CC&N, with the two cases running concurrently. It was determined that another procedural  
26 conference would be held in approximately 45 to 60 days.

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27 <sup>1</sup> Hydro indicated that Squire would only allow for Squire’s well and storage tank to be acquired for the water system  
28 in the event of condemnation by the Town. Hydro was directed to analyze the efficiencies and effectiveness of having the  
contractual relationship continue rather than having Hydro obtain the assets from Squire.

1 IT IS THEREFORE ORDERED that a **procedural conference** shall be held on **January 17,**  
2 **2012, at 10:00 a.m.,** in Hearing Room No. 1, at the Commission's offices at 1200 West Washington  
3 Street, Phoenix, Arizona 85007, to obtain **updates** on the parties' positions in these consolidated  
4 matters and to discuss how the matters should proceed.

5 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,  
6 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at  
7 hearing.

8 DATED this 22nd day of November, 2011.

9  
10   
11 SARAH N. HARPRING  
ADMINISTRATIVE LAW JUDGE

12 Copies of the foregoing mailed/delivered  
13 this 22nd day of November, 2011, to:

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Secretary to Sarah N. Harpring